

## Staff Summary Report

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Council Meeting Date: 02/21/08

Agenda Item Number: \_\_\_\_\_

**SUBJECT:** Request approval of a construction Job Order with J. Banicki Construction, Inc. and a construction change order contingency for Arterial Street Rehabilitation of Priest Drive, Mill Avenue and the intersection of Kyrene and Baseline Roads.

**DOCUMENT NAME:** 20080221PWDR08 STREET UPGRADING-MAINT-CONSTRUCTION (0809-05) PROJECT NO. 5407091

**SUPPORTING DOCS:** Yes

**COMMENTS:** Approve a job order in the amount of \$777,217.73 with J. Banicki Construction, Inc. and approve a construction change order contingency of \$116,000, subject to execution of the final written contract.

**PREPARED BY:** DONNA RYGIEL, ENGINEERING CONTRACT ADMIN. (x8520)

**REVIEWED BY:** ANDY GOH, DEPUTY PW MANAGER/CITY ENGINEER (x8896)

**APPROVED BY:** GLENN KEPHART, PUBLIC WORKS MANAGER (x8205)

**LEGAL REVIEW AS TO FORM:** ANDREW CHING, CITY ATTORNEY (x8575)

**FISCAL NOTE:** Sufficient funds are available in Capital Improvement Fund No. 5407091.

**RECOMMENDATION:** Approve Job Order and contingency amount.

**ADDITIONAL INFO:** The location for this work is Priest Drive from the Rio Salado Bridge to University Drive and Mill Avenue from 13<sup>th</sup> Street to Broadway Road. These arterial streets will be rehabilitated by milling and resurfacing with 1.5" of asphalt rubber hot mix. Kyrene Road and Baseline Road will have several lanes milled and resurfaced with conventional mix. The improvements will also include some minor concrete work.

The proposal of J. Banicki Construction, Inc. has been reviewed by staff and found to be in order. J. Banicki is one of three contractors previously selected, through a qualifications based process consistent with Arizona Revised Statutes, for an On-Call Job Order Contract for paving and resurfacing of streets and city facilities.

This award is conditioned upon execution of final written contract documents and approved submittals of any required payment bond, performance bond, ensure to insure affidavit, insurance certificates or other documents.

In addition, there will be an estimated fee of \$23,000 paid to Ninyo & Moore through a previously approved, annual contract for materials testing costs associated with this project.

 **COPY**



**CITY OF TEMPE, ARIZONA  
PUBLIC WORKS DEPARTMENT  
ENGINEERING DIVISION**

**CONTRACT DOCUMENTS**

**FOR**

**ARTERIAL STREET REHABILITATION – PRIEST DRIVE, MILL AVENUE  
AND THE KYRENE ROAD – BASELINE ROAD INTERSECTION**

**PROJECT NO. 5407091**

**JOB ORDER CONTRACT**

**CITY COUNCIL MEMBERS**

Mayor – Hugh Hallman

Mark Mitchell  
Barbara J. Carter  
Shana Ellis

P. Ben Arredondo  
Onnie Shekerjian  
J. Hut Hutson

City Manager – Charles W. Meyer  
City Engineer – Andy Goh, P.E.

2008

CITY OF TEMPE, ARIZONA  
PUBLIC WORKS DEPARTMENT  
DIVISION OF ENGINEERING

JOB ORDER CONTRACT NO. C2007-221

JOB ORDER NO. ONE

ARTERIAL STREET REHABILITATION - PRIEST DRIVE, MILL AVENUE AND THE  
KYRENE ROAD – BASELINE ROAD INTERSECTION

PROJECT NO. 5407091

**This JOB ORDER** made and entered into on this 21st day of February, 2008,  
by and between the CITY OF TEMPE, ARIZONA, a municipal corporation, hereinafter called the  
**CITY** and J. Banicki Construction, Inc. hereinafter called the **JOC CONTRACTOR** amends the  
original Contract made and entered into by and between the same parties on December 6, 2007,  
(Contract No. C2007-221 ).

**WITNESSETH:** That the JOC Contractor, for and in consideration of the sum to  
be paid by the City, in the manner and at the times hereinafter provided, and of the other mutual  
covenants and agreements hereinafter contained, and under penalties expressed in the bonds hereto  
attached, hereby agrees, for itself, its heirs, executors, administrators, successors, and assigns as  
follows:

**ARTICLE I – JOB ORDER PRICE AND WORK LOCATION:** The JOC  
Contractor shall furnish any and all plant, materials, labor, construction equipment, services and  
transportation (all applicable taxes included) required for performing all work for the construction  
of the Arterial Street Rehabilitation – Priest Drive, Mill Avenue and the Kyrene Road – Baseline  
Road Intersection (Project No. 5407091) for the sum of Seven Hundred Seventy Seven Thousand  
Two Hundred Seventeen and 73/100 Dollars (\$777,217.73), as detailed in the Proposal (Exhibit

“A”), and to completely and totally construct the same and install the materials therein for the City, in a good and workmanlike and substantial manner and to the satisfaction of the City or its properly authorized agents and strictly pursuant to and in conformity with the Specifications and Plans for the above referenced project(s) and other documents that may be made by the City through the Engineer or properly authorized agents, as provided herein. The full street or physical address of the construction Work location is Priest Drive from the Loop 202 Freeway to University Drive; Mill Avenue from 13<sup>th</sup> Street to Broadway Road; Kyrene Road and Baseline Road Intersection. The JOC Contractor shall list each Work location in any and all Contract Documents with each subcontractor at any level and each subcontractor shall include each Work location in any and all Contract Documents with its subcontractors at any level.

**ARTICLE II – REQUIRED SUBMITTALS:** The JOC Contractor shall submit the completed forms referenced in the Forms Appendix (Exhibit “B”) prior to a Notice to Proceed with the above referenced project.

**ARTICLE III – AMENDMENT:** These Job Order Agreement documents, City of Tempe Contract No. C2007-221, Performance Bond, Payment Bond and Certificate(s) of Insurance are by this reference made a part of this Job Order to the same extent as if set forth herein in full. All other provisions of the original Contract where not inconsistent with this Job Order Agreement shall remain binding on the parties hereto.

**ARTICLE IV – START OF WORK:** Work shall start as soon as practicable, and in no case later than seven (7) calendar days after the Notice to Proceed and shall be completed within ninety (90) calendar days thereafter.

Arterial Street Rehabilitation - Priest Drive, Mill Avenue and the Kyrene Road – Baseline Road Intersection  
Project No. 5407091

IN WITNESS WHEREOF, the parties hereto have executed this Job Order this \_\_\_\_\_ day  
of \_\_\_\_\_, 2008.

CITY OF TEMPE, ARIZONA

By \_\_\_\_\_  
Mayor

By \_\_\_\_\_  
Public Works Manager

ATTEST:

\_\_\_\_\_  
City Clerk

Recommended by:

  
\_\_\_\_\_  
Deputy PW Manager/City Engineer

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

**The JOC Contractor warrants that the person who is signing this Agreement on behalf of the JOC Contractor is authorized to do so and to execute all other documents necessary to carry out the terms of this Agreement.**

JOC CONTRACTOR  
J. Banicki Construction, Inc.

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Federal I.D. No. /Social Security No.

Certified to be a true and exact copy.

\_\_\_\_\_  
Karen M. Fillmore  
Records Specialist



# EXHIBIT A

**Banicki Construction, Inc.**

6423 S. Ash Avenue  
Tempe, AZ 85283

480-921-8016 (phone)  
480-921-9456 (fax)

## **Proposal for City of Tempe Various Overlay JOC Contract 07'-08'**

Subcontractors	\$223,978.00
General Conditions	\$7,489.00
Construction Labor & Materials	\$347,245.00
Construction Equipment	\$89,090.00
Subtotal	\$667,792.00
Overhead & Profit	\$53,423.36
Total	\$721,215.36
Insurance	\$7,212.15
Bonds	\$10,818.23
Sales Tax	\$37,971.99
Combined	\$777,217.73

Breakdowns for each site are attached. Price is based on scope being based as one project.  
Is broken into pieces., duration and thus General Expenses, Overhead, would be adjusted.

Prices exclude items not outlined in breakdown.



**J. Banicki Construction, Inc.**  
6423 S. Ash Avenue  
Tempe, AZ 85283

480-921-8016 (phone)  
480-921-9456 (fax)

	Discription	Quantity	Units	Unit Price	Bid total
<b>KYRENE AND BASELINE</b>					
1	Traffic control	1	LS	\$6,625.00	\$6,625.00
2	Mill Existing Asphalt 3"	2888	SY	\$2.75	\$7,942.00
3	A-19 Aspjal 3"	500	TN	\$84.49	\$42,245.00
4	Concrete Curb Remove & Replace	100	LF	\$23.60	\$2,360.00
5	Concrete Sidewalk Ramp Remove & Replace	500	SF	\$13.40	\$6,700.00
6	Truncated Domes	32	SF	\$48.35	\$1,547.20
7	Pre-Lower Manholes	9	EA	\$134.00	\$1,206.00
8	Adjust Manholes	9	EA	\$320.00	\$2,880.00
				Sub Total:	\$71,505.20
<b>MILL AVENUE</b>					
1	Traffic control	1	LS	\$6,160.00	\$6,160.00
2	Public Relations	1	LS	\$1,075.00	\$1,075.00
3	Mill Exsisting Asphalt 2 1/2"	16750	SY	\$2.25	\$37,687.50
4	1/2" Rubberized Asphalt 1 1/2"	1400	TN	\$87.00	\$121,800.00
5	Concete Curb Remove and Replace	210	LF	\$23.65	\$4,966.50
6	Concete Sidewalk Remove and Replace	1200	SF	\$13.45	\$16,140.00
7	Truncated Domes	48	SF	\$48.35	\$2,320.80
8	Pre-Lower Manholes & Water Valves	30	EA	\$134.00	\$4,020.00
9	Adjust Manholes	17	EA	\$325.00	\$5,525.00
10	Adjust Water Valves	15	EA	\$295.00	\$4,425.00
				Sub Total:	\$204,119.80
<b>202-PREIST</b>					
1	Traffic Control	1	LS	\$8,025.00	\$8,025.00
2	Public Relations	1	LS	\$1,075.00	\$1,075.00
3	Mill Exsisting Asphalt 1 1/2"	45160	SY	\$1.40	\$63,224.00
4	1/2" Rubberized Asphalt 1 1/2"	3675	TN	\$81.00	\$297,675.00
5	Concete Curb Remove and Replace	90	LF	\$23.60	\$2,124.00
6	Concete Sidewalk Ramp Remove and Replace	150	SF	\$13.40	\$2,010.00
7	Remove and Replace Concrete Sidewalk	350	SF	\$10.75	\$3,762.50
8	Truncated Domes	8	SF	\$48.35	\$386.80
9	Pre-Lower Manholes	30	EA	\$134.00	\$4,020.00
10	Adjust Manholes	17	EA	\$320.00	\$5,440.00
11	Adjust Water Valve	15	EA	\$295.00	\$4,425.00
				Sub Total:	\$392,167.30

**EXHIBIT B**

**FORMS APPENDIX**

The following forms shall be completed and submitted with each Job Order.

LIST OF SUBCONTRACTORS .....	SB-1
STATUTORY PERFORMANCE BOND .....	B-1
STATUTORY PAYMENT BOND .....	B-3



## LIST OF SUBCONTRACTORS

In accordance with the provisions of Section 108.2 of the MAG Specifications, the JOC Contractor shall provide for each Job Order the information listed below regarding proposed subcontractors which are subject to approval by the City.

[illegible]

STATUTORY PERFORMANCE BOND PURSUANT TO TITLE 34,  
CHAPTER 6, OF THE ARIZONA REVISED STATUTES  
(Penalty of this bond must be 100% of the Contract amount)

KNOW ALL MEN BY THESE PRESENTS:

That, \_\_\_\_\_ (hereinafter called the Principal), as Principal and \_\_\_\_\_, a corporation organized and existing under the laws of the State of \_\_\_\_\_, with its principal office in the City of \_\_\_\_\_, (hereinafter called the Surety), are held and firmly bound unto \_\_\_\_\_ (hereinafter called the Obligee) in the amount of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), for the payment whereof, the said Principal and Surety bind themselves, and their heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a certain written contract with the Obligee, dated the 21st day of February, 2008, to complete Project No. 5407091, which contract is hereby referred to and made a part hereof as fully and to the same extent as if copied at length herein.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the said Principal shall faithfully perform and fulfill all the undertakings, covenants, terms, conditions and agreements of said Contract during the original term of said contract and any extension thereof, with or without notice to the Surety, and during the life of any guaranty required under the Contract, and shall also perform and fulfill all the undertakings, covenants, terms, conditions, and agreements of any and all duly authorized modifications of said contract that may hereafter be made, notice of which modifications to the Surety being hereby waived; then the above obligation shall be void, otherwise to remain in full force and effect.

PROVIDED, HOWEVER, that this bond is executed pursuant to the provisions of Title 34, Chapter 6, of the Arizona Revised Statutes, and all liabilities on this bond shall be determined in accordance with the provisions of said Title and Chapter, to the extent as if it were copied at length herein.

The prevailing party in a suit on this bond shall recover as part of the judgment reasonable attorney fees that may be fixed by the Court. The performance under this bond is limited to the construction to be performed under this contract and does not include any design services, preconstruction services, finance services, maintenance services, operations services or any other related services included in the contract.

Witness our hands this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
PRINCIPAL SEAL

BY: \_\_\_\_\_

\*\*

\_\_\_\_\_  
SURETY SEAL

BY: \_\_\_\_\_

\_\_\_\_\_  
AGENCY ADDRESS

\*\* Surety hereby acknowledges they are licensed to do business in the State of Arizona \*\*

STATUTORY PAYMENT BOND PURSUANT TO TITLE 34,  
CHAPTER 6, OF THE ARIZONA REVISED STATUTES  
(Penalty of this bond must be 100% of the Contract amount)

KNOW ALL MEN BY THESE PRESENTS:

That, \_\_\_\_\_(hereinafter called the Principal), as Principal and \_\_\_\_\_, a corporation organized and existing under the laws of the State of \_\_\_\_\_, with its principal office in the City of \_\_\_\_\_, (hereinafter called the Surety), as held and firmly bound unto \_\_\_\_\_(hereinafter called the Obligee) in the amount of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), for the payment whereof, the said Principal and Surety bind themselves, and their heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a certain written contract with the Obligee, dated the 21st day of February, 2008, to complete Project No. 5407091, which contract is hereby referred to and made a part hereof as fully and to the same extent as if copied at length herein.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the said Principal shall promptly pay all monies due to all persons supplying labor or materials to the principal or the principal's subcontractors in the prosecution of the construction provided for the contract, then this obligation shall be void, otherwise to remain in full force and effect;

PROVIDED, HOWEVER, that this bond is executed pursuant to Title 34, Chapter 6, Arizona Revised Statutes, and all liabilities on this bond shall be determined in accordance with the provisions, conditions and limitations of said Title and Chapter to the same extent as if it were copied at length in this Contract.

The prevailing party in a suit on this bond shall recover as a part of the judgment reasonable attorney fees that may be fixed by the Court.

Witness our hands this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
PRINCIPAL SEAL

BY: \_\_\_\_\_

\_\_\_\_\_  
\*\*  
SURETY SEAL

BY: \_\_\_\_\_

\_\_\_\_\_  
AGENCY ADDRESS

\*\* Surety hereby acknowledges they are licensed to do business in the State of Arizona \*\*

**CITY OF TEMPE  
TEMPE, ARIZONA  
DEPARTMENT OF PUBLIC WORKS**

**JOC CONTRACTOR'S AFFIDAVIT  
REGARDING  
SETTLEMENT OF CLAIMS**

\_\_\_\_\_  
Arizona

Date \_\_\_\_\_

**ARTERIAL STREET REHABILITATION - PRIEST DRIVE, MILL AVENUE AND THE  
KYRENE ROAD -- BASELINE ROAD INTERSECTION  
PROJECT NO. 5407091**

To the City of Tempe, Arizona

This is to certify that all lawful claims for materials, rental of equipment and labor used in connection with the construction of the above project, whether by subcontractor or claimant in person, have been duly discharged or will be discharged after receipt of the final payment from the City of Tempe for the above project.

The undersigned, for the consideration of \$ \_\_\_\_\_, as set out in the final pay estimate, as full and complete payment under the terms of the contract, hereby waives and relinquishes any and all further claims or right of lien under, in connection with, or as a result of the above described project against the City of Tempe. The undersigned further agrees to defend, indemnify and save harmless the City of Tempe against any and all liens, claims of liens, suits, actions, damages, charges and expenses whatsoever, which said City may suffer arising out of the failure of the undersigned to pay for all labor performances, materials, and/or equipment furnished for the performance of said installation.

Signed and dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
Job Order Contractor

By: \_\_\_\_\_

STATE OF ARIZONA            )  
  ) ss  
COUNTY OF MARICOPA        )

The foregoing instrument was subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
My Commission Expires